

Internal Revenue Service
Director, Exempt Organizations

Department of the Treasury
P.O. Box 2508 - EP/EO
Cincinnati, OH 45201

Date: SEP 06 2001

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Employer Identification Number:

Person to Contact - I.D. Number:

Contact Telephone Numbers:

[REDACTED] Phone
[REDACTED] FAX

Dear Sir or Madam:

We have considered your application for recognition of exemption from Federal income tax under the provisions of section 501(c)(6) of the Internal Revenue Code of 1986 and its applicable Income Tax Regulations. Based on the available information, we have determined that you do not qualify for the reasons set forth on Enclosure I.

Consideration was given to whether you qualify for exemption under other subsections of section 501(c) of the Code. However, we have concluded that you do not qualify under another subsection.

As your organization has not established exemption from Federal income tax, it will be necessary for you to file an annual income tax return on Form 1041 if you are a Trust, or Form 1120 if you are a corporation or an unincorporated association.

If you are in agreement with our proposed denial, please sign and return one copy of the enclosed Form 6018, Consent to Proposed Adverse Action.

You have the right to protest this proposed determination if you believe it is incorrect. To protest, you should submit a written appeal giving the facts, law and other information to support your position as explained in the enclosed Publication 892, "Exempt Organizations Appeal Procedures for Unagreed Issues." The appeal must be submitted within 30 days from the date of this letter and must be signed by one of your principal officers. You may request a hearing with a member of the office of the Regional Director of Appeals when you file your appeal. If a hearing is requested, you will be contacted to arrange a date for it. The hearing may be held at the Regional Office or, if you request, at any mutually convenient District Office. If you are to be represented by someone who is not one of your principal officers, he or she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements as set forth in Section 601.502 of the Statement of Procedural Rules. See Treasury Department Circular No. 230.

[REDACTED]

If we do not hear from you within the time specified, this will become our final determination.

Sincerely,

Steven Miller

Director, Exempt Organizations

Enclosures: 4
Enclosure I
Form 6018
Publication 892
Return Envelope

Enclosure I

[REDACTED]
[REDACTED]
We have considered your application for recognition of exemption from federal income tax under section 501(c)(6) of the Internal Revenue Code.

You were incorporated under the law of [REDACTED] on [REDACTED]. Your Articles of Incorporation state your purposes are:

- (1) establish a market location for the membership to utilize in the direct marketing of their farm raised products,
- (2) promote the market for the benefit of its membership (through the use of advertising, special media events, and general mail out distribution to the public, but not limited to these examples),
- (3) provide general educational instruction to the membership in agriculture related areas and the general information distribution to the public regarding horticultural values and the exchange of information useful to its members regarding policies, by which means as the printing of a newsletter,
- (4) assist in the dissemination of information useful to its members from the [REDACTED], and
- (5) promote [REDACTED] grown produce.

Your by-laws indicate membership eligibility is any respectable person, association, corporation, or partnership having an interest in the stated purpose of the Corporation. Your membership application requires members to list produce they intend to sell at market and list family members or employees who may be selling for them. Members must also provide map location of their farm and agree to allow you to inspect their farm. You currently have [REDACTED] members.

Your activities are described as promoting the general membership by seeking interested parties to join, promoting the farmers market through local advertising, newsletters and promotional activities such as drawings and contests, hosting educational meetings for members using [REDACTED] and [REDACTED] for training in pesticides, marketing, bookkeeping and related items to assist members in successful business.

You are being sponsored by a regional development council to seek grants and low-interest loans to purchase a building site and construct a building for a permanent location for the farmers market. None of the financial data related to that activity is reflected in your budgets.

Your budgets for two years totaled only \$[redacted] with expenses for building rental to hold annual meeting, office supplies and liability insurance for the market. The insurance represents [redacted]% of your expenses. .-

Your minutes reflect most of your discussions are about the farmers market.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(6) Business leagues, chambers of commerce, real estate boards, boards of trade, ***, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual."

Section 1.501(c)(6)-1 of the regulations provides as follows:

"A business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. . . is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.***". "A stock or commodity exchange is not a business league.***.

In Growers Cold Storage Co. v. Commissioner, (17 B.T.A. 1279), was a cooperative corporation composed of seven members organized for the purpose of operating a cold storage warehouse. Its members stored their perishable produce in the operation of their business in the warehouse. This was an adjunct to the members' carrying on their business and was not a business league exempt from taxation. This was ruled, even though it was not organized for profit and no part of the net earnings inured to the benefit of any private shareholder or member.

Rev. Rul. 55-715, 1955-2 C.B. 263, indicates an organization that regulates the sale at auction of agricultural commodities and carries on some educational activities is exempt as a board of trade under IRC 501(c)(6). The organization did not maintain a trading floor.

Rev. Rul. 58-224, 1958-1 C.B. 242, indicates an organization that operates a trade show as its sole or principal activity primarily for the purpose of selling opportunities to individual persons is providing particular services and is not entitled to exemption under IRC 501(c)(6).

Based on your activities being related to the farmers market, your primary activity is the particular service of ensuring a farmers market is available for your members to sell their products. Since you currently promote the market, solicit membership based on participation in the market, provide liability insurance for the market, and spend most of your meeting time planning and discussing the market, your primary activity is particular services. In the future as you spend time and resources financing a market, your primary activity of particular services will even increase.

Unlike the organization in Rev. Rul. 55-715, you do little to regulate sales at the market and you do maintain a selling market or, as referred to in this ruling, a trading floor.

Like the organization in Rev. Rul. 58-224, your support and operation of the market provides selling opportunities for members. Thus, like the organization in this ruling you are providing particular services and would not qualify for exemption.

As in Growers Cold Storage Co. v. Commissioner, your provision of selling market is adjunct to, and in the interest of, your members private business and you would not qualify for exemption.

You believe you should qualify as a chamber of commerce and that you should qualify based on your educational activities and promotion of farming.

Your educational activities seem insubstantial based on the description of your activities and use of financial resources. Also, your minutes and documents supporting your application consistently discuss the farmers market and its promotion. Further, your primary reason for exemption is to be able to finance your own facility to use as the farmers market.

You are not similar to a chamber of commerce as a chamber usually promotes the common economic interests of all commercial businesses in an area and cannot have as its primary activity services for members.

You could operate the farmers market and qualify for exemption under IRC 521 as farmers cooperative if you changed operations to meet cooperative requirements, but you have indicated you do not want to qualify as farmers cooperative. Exemption under that Code section would be based on Rev. Rul. 67-430, 1967-2 C.B. 220.

You have indicated you do not want to change your method of operation to comply with Revenue Ruling 72-36. Therefore, you do not qualify for exemption under section 501(c)(12) of the Internal Revenue Code.